

REMARKS

Applicants respectfully request reconsideration and allowance of the above-identified patent application. By this paper, claims 1-22, 24-31, and 33-38 remain pending, wherein claims 1, 30, 31, 33, and 37 are independent, claims 1, 24-27, 30, 31, 33, and 34 have been amended, and claims 23, 29, and 32 have been cancelled.¹

Initially, Applicants and Applicants' attorney express appreciation to the Examiner for the courtesies extended during the recent interview held on June 13, 2006. The claim amendments and arguments submitted in this paper are consistent with the amendments and arguments presented during the course of the interview.

The Office action rejects pending independent claims 1, 30, 31, 33, and 37 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,748,896 to Daly et al. ("*Daly*") in view of U.S. Patent No. 5,701,451 to Rogers et al. ("*Rogers*"). The Office action rejects the remaining dependent claims as allegedly being unpatentable under 35 U.S.C. § 103(a) over *Daly* in view of *Rogers*, and/or further in view of either U.S. Patent No. 5,230,051 to Quan ("*Quan*") and/or U.S. Patent No. 5,809,161 to Auty et al. ("*Auty*").² For at least the following reasons, Applicants respectfully traverse these grounds of rejection.

As discussed during the interview, Applicants' invention generally relates to monitoring the performance of a servers or services using a polling server system. Normal monitoring systems simply query and receive replies on a per service basis, which translates into a one-by-one correspondence for system inquires. This query-and-reply operation repeats for each

¹ Support for the claim amendments can be found throughout the specification; for example, support may be found in the following pages and lines: p. 4, ll. 19-23 and p. 13, l. 12 through p. 15, l. 10. Accordingly, Applicants respectfully submit that no new matter has been added.

² Although the prior art status of the cited references are not being challenged at this time, Applicants reserve the right to do so in the future. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status or asserted teachings of the art of record.

individual service of a monitored server system to obtain the operating status of all the services on that system. Thus, to determine the status of multiple services at a single server, the querying computer sends multiple queries and receives multiple replies. As one can appreciate, the issuance of each query-and-reply operation takes time, as well as other resources, that potentially impact the performance of the monitored server system and the client systems it serves.

In order to reduce the number of queries generated to monitor the performance of the services provided by a server system, Applicants' advantageously provide for generating a single query requesting a compilation of operating status information about the performance of the plurality of services offered by a monitored server system. Nevertheless, there are instances where the additional polling is necessary. For example, where a deficiency in system performance occurs, it may be desirable to obtain more status information about the deficiency. Accordingly, as an additional enhancement, the compilation of information may include performance deficiencies detected in the monitored server system. When a deficiency is detected in a polling of the monitored server system, the service and/or monitored server system may be listed in a server system list, e.g., a critical server system list. As such, the polling server system may poll the critical (or other) server or service systems more frequently since the monitoring of the server system performance is typically more important once an operation deficiency is detected.

Independent claim 1 is directed towards some of the embodiments described above and recites a method of enhancing performance monitoring for a server system by decreasing the number of queries generated to monitor the performance of a plurality of various servers provided. The method of claim 1 is from the perspective of the polling server system and includes the steps of: generating a single query requesting a compilation of information about the

performance of a plurality of different services offered by a monitored server system; transmitting the single query from the polling server system to the monitored server system; and receiving one reply that includes the compilation of information about the performance of the plurality of the different services offered by the monitored server system, without receiving the information about the performance of the plurality of the different services in a piecemeal fashion. By way of example only, some of the plurality of different services offered by a monitored server system may include a directory service, a message store service, a message transfer agent service, etc. As can be seen, by including the compilation of information about the performance of the plurality of different services offered by the monitored server system into one reply, the polling time is advantageously reduced since the information is not transmitted or received in a piecemeal fashion.

By this paper, claim 1 has been amended to also include the step of using the compilation to update at least a first and a second server system list with information on the monitored server system, wherein server systems included within the first server system list are polled more frequently than server systems included within the second server system list. For example, if a service from the monitored server system is found to have a deficiency (e.g., directory service is in a non-functioning state), such server or service can be included in a critical systems list. On the other hand, those servers or services that are performing properly may be included in a second list (e.g., normal systems list). The servers or services listed in the critical systems list will then be polled more frequently than those in the normal list in order to determine, e.g., when the system is functioning properly. Note that the other independent claims contain similar language for coverage of different aspects and embodiments (e.g., from the perspective of the monitored server system and/or computer program product claims).

As discussed and generally agreed to during the interview, the cited art fails to anticipate or make obvious Applicants' claimed invention for at least the reason that the cited alleged prior art does not disclose, suggest, or enable each and every element of Applicants' claimed invention.³ For example, the combination of *Daly*, *Rogers*, *Quan*, and/or *Auty*—taken either individually, or as a whole—does not disclose or suggest (among other things) the step of using the compilation to update at least a first and a second server system list with information on the monitored server system, wherein server systems included within the first server system list are polled more frequently than server systems included within the second server system list, as recited, *inter alia*, in claim 1.⁴

Daly discloses a remote network administration system. Although *Daly* displays a list of server names (see e.g., display 110 in Figure 5A), the status thereof (e.g., running), and the type

³ “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131. That is, “for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly.” MPEP § 706.02. Applicants also note that “[i]n determining that quantum of prior art disclosure which is necessary to declare an applicant's invention ‘not novel’ or ‘anticipated’ within section 102, the stated test is whether a reference contains an ‘enabling disclosure.’” MPEP § 2121.01. In other words, a cited reference must be enabled with respect to each claim limitation.

In order to establish a *prima facie* case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” MPEP § 2143 (emphasis added). In addition, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. MPEP § 2143. During examination, the pending claims are given their broadest reasonable interpretation, i.e., they are interpreted as broadly as their terms reasonably allow, consistent with the specification. MPEP §§ 2111 & 2111.01. Finally, Applicants note that MPEP § 2141.02 states that the cited references must be considered as a whole, including those sections that “teach away” from the claimed invention. (Citation omitted).

⁴ Note that although not formally argued herein, Applicants respectfully submit that the Office action has not established a *prima facie* case of obviousness with respect to rejections made against the previous set of independent claims. For example, as noted in Amendment “A” dated January 6, 2006, *Daly* obtains status information about instantiations of the various service components therein in a “piecemeal fashion”. As such, *Daly* actually “teaches away” from Applicants claimed invention, which determines the performance of a plurality of different services in a single compilation. As such, Applicants respectfully submit that *Daly* cannot possibly disclose or suggest combining its reference teaching with that of *Rogers*, which the Office action now relies on as allegedly disclosing such feature. In addition, Applicants note that *Rogers* is directed towards a query engine of a web browser; however, because *Rogers* is not concerned with monitoring servers, *Rogers* does not necessarily rectify the deficiencies of *Daly* noted by the Office action. Nevertheless, in the interest of expediting prosecution, Applicants have amended the claims to further distinguish over the art of record. Applicants, however, reserve the right to raise these and other further arguments in future correspondence with the Office in this or any subsequent related

of service provided (e.g., file service), *Daly* does not disclose or suggest separating a compilation of various servers or services into any type of formal lists. As such, and as generally agreed to during the interview, *Daly* is silent with regards to using a compilation to update at least a first and a second server system list with information on a monitored server system, wherein server systems included within the first server system list are polled more frequently than server systems included within the second server system list, as recited, *inter alia*, in claim 1. Noting some of the deficiencies of *Daly*, the Office action cites *Rogers*.

Rogers discloses a method for fulfilling requests of a web browser. More specifically, *Rogers* is directed towards searching the World Wide Web for queries results in a browser that uses a single request to retrieve information from multiple databases. *Rogers*, however, makes no mention of monitoring of servers and updating system lists based upon such monitoring; and therefore cannot possibly disclose or suggest determining servers that should be polled more frequently than others (e.g., identifying performance deficiencies and polling problem servers more often than normally operating servers). As such, and as generally agreed to in the interview, *Rogers* cannot possibly rectify the deficiencies of *Daly* noted above with regards to claim 1. Noting some of the drawbacks and deficiencies of *Daly* and *Rogers*, the Office action cites *Quan* and *Auty*.

Quan discloses a distributed messaging system; *Auty* discloses a vehicle monitoring system. As previously mentioned, the Office action relies on these references as allegedly disclosing various elements of Applicants' dependent claims. Applicants respectfully submit, however, that neither of these references (taken either individually or as a whole) rectifies those drawbacks and deficiencies noted above with regard to *Daly* and *Rogers*. Accordingly,

applications. Accordingly, any amendments and arguments made herein should not be construed as acquiescing to the rejections made in this or any previous Office actions issued.

Applicants respectfully submit that the combination of *Daly*, *Rogers*, *Quan*, and/or *Auty*—taken either individually, or as a whole—does not disclose or suggest each and every element of Applicants' claim 1; and therefore the combination does not render this claim unpatentable. As such, Applicants respectfully request withdrawal of this ground of rejection.

As previously mentioned, the other independent claims (i.e., claims 30, 31, 33, and 37) recite methods and computer program products with elements similar to those discussed above with regard to claim 1. As such, Applicants respectfully submit that these claims are patentably distinguishable over the cited art of record for at least those reasons stated above. Therefore, Applicants respectfully request withdrawal of these grounds of rejection as well.

Based on at least the foregoing reasons and others as discussed in the interview, Applicants respectfully submit that the cited prior art fails to anticipate or make obvious Applicants' invention, as claimed for example, in independent claims 1, 30, 31, 33, and 37. Applicants note for the record that the remarks above render the remaining rejections of record for the independent and dependent claims moot, and thus addressing individual rejections or assertions with respect to the teachings of the cited art is unnecessary at the present time, but may be undertaken in the future if necessary or desirable, and Applicants reserve the right to do so.

All objections and rejections having been addressed, Applicants respectfully submit that the present application is in condition for allowance, and Applicants earnestly solicit notice to this effect. Nevertheless, should any question arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at +1.801.533.9800.

Dated this 3rd day of August, 2006.

Respectfully submitted,



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